

TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE



**CORRECTED  
FISCAL NOTE**

**HB 502 - SB 911**

March 12, 2019

**SUMMARY OF BILL:** Enhances the penalty for destruction or alteration of governmental records.

**ESTIMATED FISCAL IMPACT:**

On March 10, 2019, a fiscal note was issued estimating a fiscal impact as follows:

*Increase State Expenditures – \$410,600 Incarceration\**

*Decrease Local Expenditures – \$11,500*

After further consideration, it was determined the estimated fiscal impact was in error. As a result, the estimated fiscal impact has been corrected as follows:

**(CORRECTED)**

**Increase State Expenditures – \$68,400 Incarceration\***

Corrected Assumptions:

- Pursuant to Tenn. Code Ann. § 39-16-504(a)-(b), it is a Class A misdemeanor offense for any person to knowingly make a false entry in, or false alteration of, a governmental record; make, present, or use any record, document or thing with knowledge of its falsity and with intent that it will be taken as a genuine governmental record; or intentionally and unlawfully destroying, concealing, removing, or otherwise impairing the verity, legibility or availability of a government record.
- The proposed analysis enhances such penalty to a Class E felony.
- The average time served for a Class E felony is 1.28 years.
- Based on information provided by the Administrative Office of the Courts, there has been an average of 1.6 Class A misdemeanor convictions each year over the last five years for destruction or alteration of government records. This analysis assumes that only 10 percent of misdemeanor convictions are at the state court level. As a result, it is estimated that there are a total of 16 convictions ( $1.6 / 10\% = 16$ ) per year for Class A misdemeanor violations of Tenn. Code Ann. § 39-16-504.

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- This analysis assumes that most persons convicted get probation. It is further assumed that only 10 percent ( $16 \times 10.0\% = 1.6$ ) of such convictions will result in admissions into Department of Correction (DOC) custody each year.
- Population growth and recidivism will not impact these admissions.
- According to the DOC, the average operating cost per offender per day for calendar year 2019 is \$73.18.
- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 2 offenders admitted every year serving 1.28 years (467.52 days) for an annualized increase in state incarceration expenditures of \$68,426 ( $\$73.18 \times 467.52 \times 2$ ).
- There will not be a sufficient change in the number of misdemeanor prosecutions for the state or local government to experience any significant change in revenue or expenditures.
- The courts, district attorneys, and public defenders will not experience an increase in caseloads; therefore, any impact to the court system is estimated to be not significant.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

## **CERTIFICATION:**

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

/amj